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Attorney for Plaintiff

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN DENT WILBUR,

Plaintiff

v.

CITY OF SAN LEANDRO, a Political Subdivision, SAN

LEANDRO POLICE DEPARTMENT, JOSEPH

KITCHEN, JEFF TUDOR, CHRISTOPHER

TANKSON, KIM DEGRANO, VINCE MARCHETTI,

RICK DE COSTA, DAN FERNANDEZ, and DOES 1 TO

100, Inclusive,

Defendants.

) Case No: C 05-05403 SI

) Related case: C 03-5368 SI

)

) **REQUEST FOR CONTINUANCE**

) **AND CHANGE OF THE ENE**

) **CONFERENCE TO BE EXTENDED**

) **BEYOND THE AUGUST 9, 2006**

) **DEADLINE**

)

) Compliant Filed: October 8, 2003

) Trial Date: April 30, 2007

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) Date:

) Time:

Judge: Honorable Susan Illston

TO THE HONORABLE SUSAN ILLSTON, JUDGE:

Your Honor, the Plaintiff, John Dent Wilbur, is requesting that the ENE date be granted beyond the last date presently set of August 9, 2006.

In this case, it was agreed that an ENE conference would be set and completed no later than August 9, 2006. Both parties, the Plaintiff through his counsel, Donald Gray Drewry, and the Defendants, through their counsel, Ms. Hynes, agreed to several

Request for ENE Conference to Continue Beyond

Set Date of August 9, 2006 as Parties not Available

1 dates to hold the ENE; dates that both parties were available to
2 hold this arbitration. However, by the time that Mr. Hall was
3 assigned and all parties were able to meet and confer, the
4 Defendant's calendar had filled the dates that they had previously
5 been available, as did the Plaintiff's. Dates that parties had
6 available were not available dates with Mr. Hall. The only
7 remaining date before the August 9, 2006 deadline that Mr. Hall
8 and the Defendants were available was August 8, 2006, but that was
9 a date that the Plaintiff's counsel is to appear in Santa Barbara
10 for a criminal trial. Additionally, Mr. Hall informed Plaintiff's
11 counsel that he would have to seek permission from the Honorable
12 Wayne Brazil, Judge to waive the personal appearance of Mr. Wilbur
13 who is incarcerated in State Prison for the next three (3) years.

14 Since this time, both parties stipulated to continue all
15 dates, but the Court rejected that stipulation for lack of good
16 cause. Ms. Hynes is out of town, and no new dates have been
17 selected for the ENE. Therefore, the Plaintiff is requesting that
18 the date of August 9, 2006 as the last date to hold the ENE be
19 changed to no later than October 15, 2006; that way both parties
20 can set and hold the ENE which hopefully will resolve this matter.
21 As we now have an independent arbitrator, Mr. Hall, it is just a
22 matter of setting a date with both parties and the arbitrator's
23 schedule coordinating.

1 Additionally, the Plaintiff, John Wilbur, is seeking relief
2 from personally appearing at the ENE as required by local ADR
3 rules which requires him to be present. Obviously, his
4 incarceration is a bar to his appearance. The Plaintiff has been
5 advised that this Honorable Court lacks jurisdiction to grant this
6 request as the hearing is assigned to Oakland, and therefore, the
7 request must go to Judge Brazil who is the ADR manager, and a
8 request is being made to excuse Mr. Wilbur from personally
9 attending. This issue has not been resolved at this time.
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13 Dated: July 24, 2006

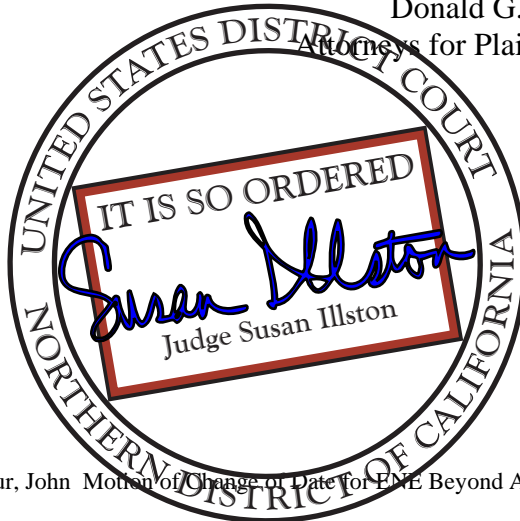
Respectfully submitted,

14 LAW OFFICES

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16 By: _____/s/

Donald G. Drewry

Attorneys for Plaintiff



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24 05CIV003Q Wilbur, John Motion of Change of Date For ENE Beyond Aug 9, 2006 8-4-06.DOC
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Request for ENE Conference to Continue Beyond

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PROOF OF SERVICE

I the undersigned say and declare:

I am over the age of eighteen years and not a party to the above entitled action; my business address is 14895 East 14th Street, Suite 485, San Leandro, California 94578.

On the date indicated below, I served the following documents enclosed in a sealed envelope, or box, on the listed address(es).

**DOCUMENTS:) REQUEST FOR CONTINUANCE AND CHANGE OF THE ENE
CONFERENCE TO BE EXTENDED BEYOND THE AUGUST 9, 2006 DEADLINE**

ADDRESS(ES): SEE SUPPLEMENTAL SHEET

____ (BY MAIL) I placed a true copy, enclosed in a sealed, postage paid envelope, in the United States Mail, at San Leandro, California.

____ (BY PERSONAL SERVICE) I caused each such envelope to be delivered by hand to the address(es) noted on the supplemental sheet.

____ (BY FACSIMILE) I caused the said document to be transmitted by facsimile transmission to the number indicated after the address(es) noted on the supplemental sheet.

____ (BY COURIER)

I caused the said document to be delivered by courier to the address(es) noted on the supplemental sheet

Dated: August 04, 2006

Araceli Parra, Secretary

SUPPLEMENTAL SHEET

Ms. Tricia L. Hynes, Esq.
Meyers, Nave, Riback, Silver and Wilson
555 12th Street, Suite 1500
Oakland, CA. 94607

Ms. Kimberly Colwell
Meyers, Nave, Riback, Silver and Wilson
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Oakland, CA. 94607

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